



**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT
STAFF REPORT**

DATE: November 8, 2023

TO: Planning Commission

FROM: Talyn Mirzakhian, Director of Community Development

THROUGH: Adam Finestone AICP, Planning Manager

BY: Tari Kuvhenguhwa, Associate Planner

SUBJECT: Consideration of amendments to Title 10 (Planning and Zoning) of the Manhattan Beach Municipal Code for a proposed ordinance related to Senate Bill 9 (SB 9).

RECOMMENDATION

Staff recommends that the Planning Commission conduct a public hearing and adopt the proposed Resolution recommending to the City Council adoption of the proposed Citywide Zoning Code amendments related to Senate Bill 9 (SB 9).

BACKGROUND

On September 16, 2021, Governor Newsom signed into law SB 9 to take effect on January 1, 2022. SB 9 is among the many housing bills passed by the State in recent years in response to the State declaring a housing shortage and passing legislation aimed at facilitating housing production by preempting local land use regulations.

SB 9 is a two-part housing bill that is applicable in single-family residential zones and as such, is only applicable in the City's RS Single-Family Residential District. Specifically, SB 9 requires local jurisdictions to ministerially approve: 1) housing developments containing up to two residential units on a lot in a single-family residential zone, exclusive of Accessory Dwelling Units (ADU) and Junior ADUs, and/or 2) an urban lot split, which is a subdivision of one lot in a

single-family residential zone into two lots of approximately equal size. The property owner of an original lot in a single-family residential zone may opt to utilize only one part of the SB 9 regulations or both simultaneously through a ministerial process (i.e., reviewed with no public hearing or discretion, provided that the proposed development is in compliance with established objective standards and requirements). SB 9 effectively allows property owners to:

- A. Increase the density beyond that prescribed in single-family residential zones by allowing the development of up to two residential units that are not ADUs/JADUs;
- B. Subdivide a lot into two smaller lots that may not comply with the typical minimum lot size required in single-family residential zones; and
- C. Further extend the time limits applicable to mapping actions governed by the Subdivision Map Act (SB 9 and non-SB 9 mapping actions).

On December 21, 2021, the City Council adopted [Urgency Ordinance No. 21-0009-U](#), to establish objective standards in addition to State SB 9 regulations, with an initial expiration date of February 4, 2022. Subsequently, on February 1, 2022 and December 6, 2022, the City Council adopted [Urgency Ordinance No. 22-0003-U](#) and [No. 22-0012-U](#), respectively, which ultimately extended the original Urgency Ordinance No. 21-0009-U to expire on December 19, 2023. A summary of provisions adopted through Urgency Ordinance No. 21-0009-U is provided in Table 1 below:

Table 1. Summary of SB 9 Urgency Ordinance

| Urban Lot Splits | SB 9 Unit Development |
|--|--|
| <ul style="list-style-type: none"> • Area/Quantity - No more than 2 resulting parcels - each parcel must be at least 1,200 square feet. • Number of Units - Resulting parcels may have a maximum of 2 units per parcel. • Lot Width - The new lot must be at least 20 feet wide. • Existing Residences - The split must result in the existing residence(s) being located fully on a split parcel. • 60:40 - Neither resulting lot shall be smaller than 40% of the original lot area. • Flag Lot - Prohibited, if adjacent to an alley, is a corner lot, or a through lot. • Limits - Subsequent lot split prohibited. • Owner Occupancy - Required on one of | <ul style="list-style-type: none"> • Number of Units - An existing single-family zoned property may have a maximum of two units and a maximum of 2 detached ADU/JADUs. • Size - Minimum 800 square feet must be allowed. • Setbacks - Require 4 feet side or rear setbacks; must comply with front setback requirement. • Existing Setbacks - Existing residential units or those reconstructed in the same location and dimensions may maintain their current setbacks. • Prohibited Uses - Short-term rentals and non-residential uses. • Parking - One off-street parking space per |

| Urban Lot Splits | SB 9 Unit Development |
|---|---|
| <p>the parcels for a minimum of 3 years.</p> <ul style="list-style-type: none"> • Access – Perpetual access from each split parcel to the street/alley is required. | <p>new residential unit is required. Existing parking to be maintained.</p> |

In the event a permanent ordinance is not adopted by December 19, 2023, the City is required to review proposed SB 9 projects pursuant to SB 9 without any regulations other than the minimal standards set by state law. In order to continue applying additional objective provisions that acknowledge the City’s character and development patterns, staff has researched and evaluated SB 9 regulations to draft a permanent ordinance to replace the urgency ordinance. By doing so, the draft permanent ordinance is also intended to improve the clarity and ease-of-use as presented in this report.

On September 27, 2023, the Planning Commission conducted a noticed study session at its regular meeting to discuss the development of permanent regulations to implement SB 9. The public and the Commission were primarily concerned with developing a better understanding of what SB 9 entails, its potential implications for the City, environmental review requirements, and increasing awareness within the community. Among other issues, the Commission discussed parking requirements for SB 9 developments and applicability of SB 9 within different parts of the City. After the discussion concluded, staff confirmed that they would move forward with scheduling the public hearing for the Planning Commission to review the draft code amendments.

DISCUSSION

A local jurisdiction is allowed to voluntarily adopt an SB 9 ordinance with objective development standards to supplement the State regulations, provided that the ordinance complies with State law requirements. Staff has prepared a draft ordinance (Attachment A) that will further clarify and refine Urgency Ordinance 22-0012-U with additional code language where necessary. Specifically, the draft ordinance includes the creation of Chapter 10.78 (SB 9 Unit Development) and an amendment to Section 10.12.020. Additionally, companion amendments are proposed to address urban lot splits, mapping requirements, and the expiration of maps. These are proposed through the creation of Chapter 11.40 (Urban Lot Splits) and amendments to existing Sections 10.12.020 (Land Use Regulations: RS, RM, RH, RPD, and RSC Districts), 11.04.030 (Required Maps), and 11.12.040 (Expiration) in the Manhattan Beach Municipal Code (MBMC). However, those amendments are not under the purview of the Planning Commission and are included in this report for context only. The Planning Commission’s purview does not extend to Title 11 (Subdivisions) of the MBMC, thus the review and recommendation of the draft ordinance to the City Council is limited to Chapter 10.78 (SB 9 Unit Development) of Title 10 (Planning and Zoning). However, as urban lot splits are closely related to SB 9 unit developments because an applicant may apply for both simultaneously,

draft code language related to Chapter 11.40 (Urban Lot Splits) is also included in this report to provide the Commission with a full picture of the changes proposed.

Draft Ordinance

SB 9 largely consists of two different components: a zoning component and a subdivision component. As such, two independent chapters in the respective Titles of the MBMC are proposed with similar verbiage and content for consistency. To illustrate, the same or slightly modified language is used for the purpose, definitions, general requirements, and local standards that were derived from the Urgency Ordinance No. 21-0009-U or the MBMC. Specific examples of newly added provisions that are included in both chapters include, but are not limited to:

- New definitions such as flag lot, primary dwelling unit, and principal residence.
- Restrictions on demolition or alteration of certain existing housing types (i.e., rented to moderate, low or very low income families, or occupied by a tenant in the last three years).
- The maximum number of units allowed.

Overall, a number of similar provisions are included in both chapters that reflect the original intent of SB 9 while being more specific to the type of project being regulated (i.e., SB 9 unit development or urban lot split). Provisions in the Urgency Ordinance No. 21-0009-U have been cleaned up or revised to be more consistent with the standards and language found in the MBMC.

A summary of the proposed ordinance as it relates to Chapter 10.78 (SB 9 Unit Development) and Chapter 11.40 (Urban Lot Splits) is provided below with key provisions identified in *italics*, followed by a discussion on the proposed amendment.

1. Chapter 10.78 (SB 9 Unit Development)

A) Clarified the maximum number of units permitted (Section 10.78.040.A)

A new provision is proposed to clarify the maximum number of units allowed in conjunction with ADU law, as the State designed SB 9 to be complementary to ADU law and can be used simultaneously. In general, lots that were not created through an urban lot split can have up to four units on the same lot, which can be a mix of primary dwelling units, ADUs, and JADUs. Importantly, no more than two primary dwelling units are allowed on the lot. The term “primary dwelling unit” is defined in Section 10.78.020 as a single-family residence that is not an ADU or JADU.

B) Included a provision related to demolition restrictions (Section 10.78.040.B.1)

A provision directly from the State SB 9 housing bill is incorporated to ensure that the City's regulations regarding demolition are consistent with the State requirements, which prohibits demolition of more than 25 percent of the exterior walls when there has been a tenant in the existing dwelling within the last three years.

C) Included additional objective standards (Section 10.78.040.B.2 - 4)

Additional provisions were included to provide further guidance on what can be developed:

- Configuration of the primary dwelling units can be attached, adjacent to or detached from other units.
- The height of the new unit is subject to the base zoning district and Area District standards.
- Setbacks are specified as follows:
 - Four feet side and rear
 - Based on base zoning district for front, including how front setbacks are measured for flag lots
 - No new setbacks for existing structures
 - Ten feet between detached primary dwelling units

D) Supplemented the parking provisions (Section 10.78.040.B.5.c-d.)

Two provisions have been added to ensure that all new and replaced parking will comply with the requirements of both state law and the regulations set forth in Chapter 10.64 (off-street parking and loading regulations).

E) Specified limitations on separate conveyance (Section 10.78.040.B.6.d.)

A provision was added to clarify that separate conveyance of attached or detached primary dwelling units on the same lot is prohibited.

F) Other related amendments (Cross-referencing Chapter 10.78)

The existing 'Land Use Regulations' table found in Section 10.12.020 (Land use regulations: RS, RM, RH, RPD, and RSC districts) will be updated to show that 'SB 9 Unit Development' will be a permitted use in the RS zone, subject to the requirements of state law and in accordance with Chapter 10.78.

2. Chapter 11.40 (Urban Lot Splits)

A) Included a provision on the area and size of the parcel (Section 11.40.040.A)

A provision from the State SB 9 housing bill regarding the size and proportion of the resulting lots for urban lot splits is being incorporated to ensure the ordinance clearly

states the base requirements.

B) Clarified the maximum number of units permitted (Section 11.40.040.B)

A new provision is proposed to clarify the maximum number of units allowed on lots with an urban lot split. Specifically, lots that are created through an urban lot split can have up to two units on each resulting lot, inclusive of ADUs and JADUs.

C) Included a requirement for parcel maps (Section 11.40.040.C.5)

A provision is included to require that an applicant for an urban lot split must submit a parcel map that clearly states that it is an “urban lot split” pursuant to Government Code Section 66411.7 and Chapter 11.40 of the MBMC. This will assist the City in ensuring that no subsequent urban lot splits are granted in the future per State SB 9 regulations.

D) Included provisions on separate conveyance (Section 11.40.040.D)

New provisions are proposed on separate conveyance within and between the resulting lots. Specifically, attached or detached primary dwelling units within the resulting lot (i.e., the two dwelling units on the lot created by an urban lot split) may not be owned or conveyed separately. However, separate conveyance of the resulting lots is possible and structures that span the lot line may be allowed if building code safety standards are met and necessary documentation that allocates the rights and responsibilities between the two owners are recorded.

E) Other related amendments

Sections 11.04.030 (Required Maps) and 11.12.040 (Expiration) are amended to include verbiage on urban lot splits, as the application will be subject to Title 11 (Subdivisions).

Extension of Subdivision Map Expiration Timeline

The third component of SB 9, which is not as commonly known as the other two parts, amends Government Code Section 66452.6 (Attachment D). This is a section of the Subdivision Map Act (SMA) where SB 9 allows an additional 12 month extension to the expiration date of tentative subdivision maps. Per the SMA, a tentative subdivision map ordinarily expires a minimum of 24 months after approval, which (prior to SB 9) could be extended by 12 months for a total of 36 months. Under SB 9, this period can be further extended by an additional 12 month period which results in a total of 48 months. For maps that are not filed under urban lot splits, SB 9 establishes a property owner’s right to an extension of 48 months (previously 36 months) after the filing of the final map(s) if at least \$236,790 was expended on off-site public improvements.

While SB 9 extended the timeline in the SMA, the City’s current provision related to subdivision map expirations is more relaxed in that the approval is valid for 36 months with the allowance

to extend up to 36 months (for a total of 72 months). However, given that urban lot splits were part of the same housing bill and the fact that a relatively shorter timeline can ensure there is an adequate and timely follow-through from the applicant, staff is proposing to apply the 48-month SMA timeline (instead of the longer 72-month timeline), as incorporated in Section 11.12.040 (Expiration).

Potential Implications of SB 9

The City's RS zone is located in Area Districts I, II and portions of III, generally consisting of single-family neighborhoods east of Vista Drive, Grandview Drive, Valley Drive, and Crest Drive. There are approximately 8,440 lots in the RS zone that are eligible to apply for an SB 9 project. In anticipating the number of applications the City is likely to receive for construction of additional SB 9 residential units, staff analyzed the number of ADU applications processed since January 2021, at which time amendments to the previous ADU ordinance were adopted by the City Council that relaxed the regulations. Based on data from the past two years (2021-2022), the City permitted 26 ADUs, averaging 13 ADUs per year. This indicates that a very small fraction in the City has pursued additional units on their lot under ADU regulations. Compared to SB 9, ADU regulations are more permissive in that they can be built in single- and multi-family residential zones, and do not require additional parking as all parcels in the City are within a ½ mile radius from a public transit stop. Given that no SB 9 applications have been submitted to the City thus far, and that the applicability is limited to single-family residential zoning districts, the number of residential units produced under SB 9 will likely be few and far between, which is also the case throughout most of the State.

While the majority of lots in the RS zone are eligible for urban lot splits, the feasibility depends on several factors, which include: the scope of the existing development on the lot; access to the public right-of-way; existing lot width, setbacks, and open space requirements; and the ability to accommodate additional parking and a new driveway. Given that the majority of residential development in recent years has approached the maximum buildable floor area of the lot, urban lot splits may be feasible only on properties where there has been no additional development since original construction in the 1950s-1960s. During that time, many lots were developed with smaller homes, ranging between 600 and 1,200 square feet, with undeveloped areas remaining as open space on the lot. Based on these factors, staff estimates that approximately 3% of RS zone lots will be able to pursue urban lot splits. This aligns with a study performed by The Turner Center for Housing Innovation at University of California, Berkeley, which estimated that it would be feasible to develop between 1.5% and 5.4% of single-family lots in the State when utilizing SB 9 provisions.

ENVIRONMENTAL REVIEW

Pursuant to Government Code Sections 65852.21(j) and 66411.7(n), a local ordinance implementing SB 9 shall not be considered a "project" as defined in Section 21065 of the Public

Resources Code or Section 15378 of the California Environmental Quality Act (CEQA) guidelines; therefore, it is not subject to environmental review pursuant to CEQA.

PUBLIC OUTREACH

A public notice for the November 8, 2023, public hearing was published in The Beach Reporter on October 26, 2023 and posted at City Hall. A courtesy notice was also published in The Beach Reporter on September 14, 2023, ahead of the September 27, 2023, study session discussed above. Additionally, the City maintains an SB 9 webpage (<https://www.manhattanbeach.gov/sb9>) to provide information to the public about the state legislation, the City's current urgency ordinance, and other periodic updates. As of the writing of this report, staff has not received any public comments.

CONCLUSION

Staff recommends that the Planning Commission conduct the public hearing and adopt the proposed Resolution recommending Municipal Code Amendments related to SB 9 to the City Council.

ATTACHMENTS

- A. Draft Resolution No. PC 23-___
- B. Excerpt of Government Code Section 65852.21 (related to SB 9 Unit Development)
- C. Excerpt of Government Code Section 66411.7 (related to Urban Lot Splits)
- D. Excerpt of Government Code Section 66452.6 (related to Subdivision Map Act)
- E. Summary Table of State SB 9 Legislation

RESOLUTION NO. PC 23-___

**RESOLUTION OF THE MANHATTAN BEACH PLANNING COMMISSION
RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AMENDMENTS TO TITLE 10
(PLANNING AND ZONING) OF THE MANHATTAN BEACH MUNICIPAL CODE FOR A
PROPOSED ORDINANCE RELATED TO SENATE BILL 9 (SB 9)**

**THE MANHATTAN BEACH PLANNING COMMISSION DOES HEREBY FIND AND RESOLVE AS
FOLLOWS:**

SECTION 1. On September 16, 2021, Governor Gavin Newsom signed into law Senate Bill 9 (SB 9) to take effect on January 1, 2022. SB 9 is among many housing bills passed by the State in recent years in response to the State declaring a housing shortage and passing legislation aimed at facilitating housing production by preempting local land use regulations. This State legislation allows local municipalities to establish objective development standards, provided that they are not more restrictive and do not effectively preclude the development of the residential units established by SB 9.

SECTION 2. On December 21, 2021, Urgency Ordinance No. 21-0009-U was adopted by the City Council to establish objective standards in addition to State SB 9 regulations, with an initial expiration date of February 4, 2022.

SECTION 3. On February 1, 2022, Urgency Ordinance No. 22-0003-U was adopted to extend the interim Ordinance No. 21-0009-U for an additional 10 months and 15 days to allow staff additional time to study and draft a permanent ordinance for the implementation of SB 9.

SECTION 4. On December 2, 2022, Urgency Ordinance No. 22-0012-U was adopted to extend the interim Ordinance No. 21-0009-U for an additional year, which is set to expire on December 19, 2023.

SECTION 5. In advance of the December 2023 expiration of the City's current Urgency Ordinance, staff has drafted permanent regulations to replace it. The draft ordinance proposes amendments to Title 10 (Planning and Zoning) of the Manhattan Beach Municipal Code in order to facilitate the implementation of SB 9.

SECTION 6. The Planning Commission hereby makes the following findings:

- A. The proposed zoning text amendments to Title 10 (Planning and Zoning) serve to establish objective development standards to supplement the State regulations. The amendments further clarify and refine Urgency Ordinance 22-0012-U with additional code language where necessary. They include, but are not limited to, clarifying the number of residential units permitted on a single-family zoned parcel, demolition restrictions, parking provisions, and introducing additional objective standards and associated definitions.
- B. On November 8, 2023, the Planning Commission conducted a duly noticed public hearing to consider amendments to Title 10 (Planning and Zoning) of the Manhattan Beach Municipal Code to establish permanent regulations for the implementation of SB 9, during which the Planning Commission received a presentation by staff and provided an opportunity for the public to provide evidence and testimony. The Planning Commission also received and reviewed written testimony received by the City prior to the public hearing.
- C. The Planning Commission public hearing notice for November 8, 2023 included a ¼ page display ad published in The Beach Reporter, a newspaper of general circulation in Manhattan Beach, and at City Hall and various other City facilities.
- D. The proposed text amendments have been prepared in accordance with Government Code Sections 65853, et seq.
- E. Pursuant to Government Code Section 65852.21(j), the proposed amendments to Title 10 (Planning and Zoning) are not subject to the California Environmental Quality Act ("CEQA") because a local ordinance implementing SB 9 shall not be considered a "project" as defined in Section 21065 of the Public Resources Code or Section 15378 of the CEQA Guidelines. Therefore, it is not subject to environmental review pursuant to CEQA.
- F. The proposed zoning text amendment will be consistent with the General Plan Policy 1.2 of in the General Plan Housing Element to "facilitate the development of housing through the removal of local regulatory constraints."

SECTION 7. The Planning Commission hereby recommends that the City Council adopt amendments to Title 10 (Planning and Zoning) of the Manhattan Beach Municipal Code, which is incorporated herein by reference as "Exhibit A".

SECTION 8. The Secretary of the Planning Commission shall certify to the adoption of this Resolution. The Secretary shall make this resolution readily available for public inspection.

November 8, 2023

Robert Tokashiki
Planning Commission Chair

I hereby certify that the following is a full, true, and correct copy of the Resolution as **ADOPTED** by the Planning Commission at its regular meeting on **November 8, 2023** and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Talyn Mirzakhanian
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary

Exhibit A: Draft Ordinance

ATTACHMENT B

State of California

GOVERNMENT CODE

Section 65852.21

65852.21. (a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(b) (1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2) (A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B) (i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(f) Notwithstanding Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(i) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) The terms “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(3) “Local agency” means a city, county, or city and county, whether general law or chartered.

(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

(Added by Stats. 2021, Ch. 162, Sec. 1. (SB 9) Effective January 1, 2022.)

**THIS PAGE
INTENTIONALLY
LEFT BLANK**

ATTACHMENT C

State of California

GOVERNMENT CODE

Section 66411.7

66411.7. (a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a single-family residential zone.

(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.

(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:

(1) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.

(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.

(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:

(1) Easements required for the provision of public services and facilities.

(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

(3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.

(g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

(2) This subdivision shall not apply to an applicant that is a “community land trust,” as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a “qualified nonprofit corporation” as described in Section 214.15 of the Revenue and Taxation Code.

(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.

(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.

(j) (1) Notwithstanding any provision of Section 65852.2, 65852.21, 65852.22, 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.

(2) For the purposes of this section, “unit” means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(l) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(m) For purposes of this section, both of the following shall apply:

(1) “Objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development

applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(2) “Local agency” means a city, county, or city and county, whether general law or chartered.

(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

(Added by Stats. 2021, Ch. 162, Sec. 2. (SB 9) Effective January 1, 2022.)

State of California

GOVERNMENT CODE

Section 66452.6

66452.6. (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 24 months. However, if the subdivider is required to expend two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way that abut the boundary of the property to be subdivided and that are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 48 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2012, and each calendar year thereafter, the amount of two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency that approved or conditionally

approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for

purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action before expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency that owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency that owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency that owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

(Amended by Stats. 2021, Ch. 162, Sec. 3. (SB 9) Effective January 1, 2022.)

**THIS PAGE
INTENTIONALLY
LEFT BLANK**

ATTACHMENT E

| <u>Summary of SB 9 State Legislation¹</u> |
|--|
| <i>SB 9 Unit Development (Gov. Code Section 65852.21)</i> |
| Size - Objective standards must allow two units at 800 square feet each. |
| Number of Units - An existing single-family zoned property may have a maximum of two primary units and a maximum of 2 ADU/JADUs. |
| Setbacks - Existing residential units or those reconstructed in the same location and dimensions may maintain their current setbacks. Otherwise, four feet from the side and rear lot lines. |
| Existing Unit Protections - If there was a tenant in the last 3 years, no more than 25% of the existing unit's exterior structural walls can be demolished. |
| CEQA - Since SB 9 assigns a ministerial process for these unit developments, they are not subject to CEQA review. Only discretionary reviews (not ministerial reviews) are subject to CEQA under state law. |
| <i>Urban Lot Splits (Gov. Code Section 66411.7)²</i> |
| Use Restriction - Allowed uses on resulting parcels are limited to residential uses. |
| Number of Units - Resulting parcels may have a maximum of 2 units (inclusive of ADU/JADUs). |
| Area/Quantity* - No more than 2 resulting parcels at least 1,200 square feet allowed. *Cities can adopt a smaller minimum lot size. |
| 60:40 - Neither resulting lot shall be smaller than 40% of the original lot area. |
| Future Lot Splits Prohibited - If the parcel is established through an urban lot split, future lot splits are not allowed. If the owner or someone acting in concert with the owner subdivided an adjacent parcel using an urban lot split, the new urban lot split is not allowed. |

¹ This Attachment E summarizes the provisions of SB 9 that are relevant to development within the City of Manhattan Beach. This is not intended to be a summary of each and every provision of SB 9. For example, since the City does not have any residential units connected to septic systems, we have not identified the SB 9 provisions related to percolation tests.

² Urban Lot Splits, while pertinent to the overall SB 9 legislation enacted by the State, are not under the purview of the Planning Commission. This summary information is being provided for reference only.

| |
|---|
| <p>Owner Occupancy* – Required on one of the parcels for a minimum of 3 years. Owners required to sign affidavit stating this. *Cities cannot impose other owner occupancy requirements. Community land trusts and qualified non-profits are exempt from this occupancy requirement.</p> |
| <p>Non-conforming Zoning - Cities cannot require the corrections of non-conforming zoning conditions as a condition of parcel map approval.</p> |
| <p>Access – Cities can require perpetual access from each split parcel to the street/alley (i.e. the public right-of-way).</p> |
| <p>Public Improvements - Cities cannot require dedications of right-of-way or off-site public improvements as conditions of approval.</p> |
| <p>Easements - Cities can require easements for the provision of public services and facilities.</p> |
| <p>Parcel Map - Urban lot split is approved through a parcel map.</p> |
| <p>CEQA - Lot split (i.e. subdividing the land) is not subject to CEQA per the state legislation.</p> |
| <p><i>Applicable to Both</i></p> |
| <p>Affordable & Rental Housing Restrictions - Cannot demolish housing that: 1) is subject to recorded covenant, ordinance, or law that restricts rents to be affordable to persons and families of moderate, low, or very low income; 2) is subject to a local rent control ordinance; 3) has been occupied by a tenant in the last 3 years; 4) has been withdrawn from the rental market pursuant to the Ellis Act within 15 years before the development application is submitted for an urban lot split. SB 9 unit development cannot occur on a lot where the Ellis Act provision applies.</p> |
| <p>Environmental Location Restrictions - Cannot be located in: 1) farmland; 2) wetlands; 3) very high fire severity zone; 4) hazardous waste site; 5) delineated earthquake fault zone identified by the State Geologist; 6) a 100-year old flood zone identified in a FEMA map; 7) a regulatory floodway identified in a FEMA map; 8) lands identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan; 9) habitat for protected species; and 10) lands under conservation easement.</p> |
| <p>Historic Location Restriction - Cannot be located in: 1) a historic district or property listed in the State Historic Resources Inventory; or 2) a site designated or listed as a city or county landmark, historic property, or district pursuant to a city or county ordinance.</p> |
| <p>Public Health & Safety Protections - City may deny either type of project if the building official (in our case, the Community Development Director) finds, based on a preponderance of evidence that the development would have a specific, adverse</p> |

impact on public health and safety or the physical environment that cannot be mitigated or avoided. General plan or zoning inconsistency does not qualify as a "specific, adverse impact."

Objective Standards - Cities may impose objective zoning standards, subdivision standards, and design standards so long as they do not have the effect of physically precluding the construction of up to two units or that would physically preclude either of the units from being at least 800 square feet in floor area.

Reduced Setbacks* - Require 4 feet for side and rear setbacks.

*Cities can adopt smaller minimum setbacks.

Parking Requirement & Exemptions - One off-street parking space required per unit, unless site qualifies for one of the transportation-related exemptions.

Short-Term Rentals Prohibited: Short-term rentals (i.e. for less than 30 days) are prohibited.